



Docket 79564APRC  
Customer No. 01333

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

Anthony L. Tintera, et al

CUSTOMIZING DIGITAL IMAGE  
TRANSFER

Serial No. 09/990,500

Filed November 21, 2001

Group Art Unit: 2615

Examiner: Anthony J. Daniels

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*Laurie A. Wurtz*  
LAURIE A. WURTZ  
May 30, 2006

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Sir:

**APPEAL BRIEF TRANSMITTAL**

Enclosed herewith is Appellants' Appeal Brief for the above-identified application.

The Commissioner is hereby authorized to charge the Appeal Brief filing fee to Eastman Kodak Company Deposit Account 05-0225. A duplicate copy of this letter is enclosed.

Respectfully submitted,

*Pamela R. Crocker*

Attorney for Appellants  
Registration No. 42,447

Pamela R. Crocker/law  
Telephone: 585-477-0553  
Facsimile: 585-477-4646  
Enclosures

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.



AF  
JW  
Docket 79564A/PRC  
Customer No. 01333

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

John L. Wasula et al.

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IMAGE TRANSFER**

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Laurie A. Wurtz

Date

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Sir:

**APPEAL BRIEF PURSUANT TO 37 C.F.R. 41.37 and 35 U.S.C. 134**

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## **APPELLANTS' BRIEF ON APPEAL**

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's Final Rejection of claims 1-32 which was contained in the Office Action mailed December 28, 2005.

A timely Notice of Appeal was filed with a Pre-Appeal Brief Request for Review on March 27, 2006.

### **Real Party in Interest**

The present application is assigned of record to Eastman Kodak Company. The assignee Eastman Kodak Company is the real party in interest.

### **Related Appeals and Interferences**

No appeals or interferences are known which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

### **Status of Claims**

The present application was filed November 21, 2001, and claims priority to PCT application Serial No. PCT/US00/15422, filed June 2, 2000, which claims priority to U.S. provisional application Serial No. 60/137,094, filed June 2, 1999.

Claims 1-32 are pending in the present application, with claims 1, 13, 16, 17, 20 and 21 being the independent claims.

Each of claims 1-32 stands finally rejected. Claims 1-5, 8, 11 and 16-19 are rejected under 35 U.S.C. §102(e). Claims 6, 7, 9, 10, 12-15 and 20-32 are rejected under 35 U.S.C. §103(a). Claims 1-32 are appealed.

Appendix I provides a clean, double spaced copy of the claims on appeal.

### **Status of Amendments**

No amendment has been filed subsequent to final rejection.

### **Summary of Claimed Subject Matter**

#### **Claim 1**

Independent claim 1 is directed to a digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. An illustrative embodiment of the claimed

digital camera is digital camera 10 shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The digital camera of claim 1 includes means for providing a database having a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields, the image utilization fields identifying respective instructions for utilization of one or more digital images by the external device. Corresponding structure, material or acts in the specification comprises firmware memory 28 or removable memory card 30 of the digital camera 10. See the specification at, for example, page 5, lines 18-24, and page 6, lines 29-31. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 1 further includes means for selecting one of the plurality of customized profiles from the database. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, and page 9, lines 6-13. See also the flow diagrams of FIG. 2A, steps 110 and 120, and FIG. 4, steps 300-315.

The digital camera of claim 1 further includes means for defining a plurality of profile indices respectively corresponding to ones of the plurality of customized profiles. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 5-10. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 1 further includes means for associating a profile index with at least one captured image to identify the corresponding selected customized profile. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 5-10, and page 9, lines 9-16. See also the flow diagram of FIG. 4, steps 310 and 315.

Finally, the digital camera of claim 1 includes storage means for receiving and storing the at least one captured image and the corresponding profile index. Corresponding structure, material or acts in the specification comprises removable memory card 30 of digital camera 10. See the specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

### **Claim 13**

Independent claim 13 is directed to a digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. An illustrative embodiment of the claimed digital camera is digital camera 10 shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The digital camera of claim 13 includes means for storing a plurality of software application program identifiers which identify corresponding software application programs which are resident on the external device. Corresponding structure, material or acts in the specification comprises firmware memory 28 or removable memory card 30 of the digital camera 10. See the specification at, for example, page 5, lines 18-24, page 6, lines 29-31, and page 8, lines 4-5. See also the flow diagram of FIG. 2A, step 130, and line 8 of the customized profiles in FIGS. 3A and 3B.

The digital camera of claim 13 further includes a user interface for selecting one of the plurality of software application program identifiers to be associated with at least one captured image. In the illustrative embodiment, this user interface comprises image display 22 and user buttons 24 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, and page 9, lines 6-13. See also the flow diagram of FIG. 4, steps 300-315.

The digital camera of claim 13 further includes storage means for receiving and storing the at least one captured image and the associated software application program identifier. Corresponding structure, material or acts in the specification comprises removable memory card 30 of digital camera 10. See the specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

The claim further specifies that the software application program identifiers are stored within respective customized profiles selectable via the user interface, the selected one of the plurality of software application program identifiers being associated with the at least one captured image by storing an identifier of the corresponding customized profile with the at least one captured image. Examples of the customized profiles are shown in FIGS. 3A and 3B of the drawings, with the software application program identifiers shown in line 8 of the respective profiles. See the specification at, for example, page 8, lines 4-5.

### **Claim 16**

Independent claim 16 is directed to a digital camera for capturing images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. An illustrative embodiment of the claimed digital camera is digital camera 10 shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The digital camera of claim 16 comprises storage means for storing a plurality of images captured by an image sensor. Corresponding structure, material or acts in the specification comprises removable memory card 30 of digital camera 10. See the specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

The digital camera of claim 16 further includes means for storing an image deletion mode for each stored image which indicates that such stored image is to be deleted from the storage means after such stored image is transferred to the external device, wherein the image deletion mode is stored as one of a plurality of image utilization fields in a given one of a plurality of customized profiles, particular ones of the customized profiles being selectable for use with one or more of the stored images. Corresponding structure, material or acts in the specification comprises firmware memory 28 or removable memory card 30 of the digital camera 10. See the specification at, for example, page 5, lines 18-24, page 6, lines 29-31, and page 11, lines 5-7. See also line 10 of the customized profiles in FIGS. 3A, 3B and 3C.

The recited user interface for selecting a particular one of the customized profiles, having the image deletion mode as one of the image utilization fields thereof, for at least one stored image, may comprise image display 22 and user buttons 24 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, and page 9, lines 6-13. See also the flow diagram of FIG. 4, steps 300-315.

The claim further recites that the particular one of the customized profiles is selected for the at least one image by storing in association with the at least one image a corresponding profile index that identifies said profile from among the plurality of customized profiles. Examples of the customized profiles are shown in FIGS. 3A, 3B and 3C of the drawings. See the specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

### **Claim 17**

Independent claim 17 is directed to a digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. An illustrative embodiment of the claimed digital camera is digital camera 10 shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The digital camera of claim 17 includes means for providing a profile table. Corresponding structure, material or acts in the specification comprises firmware memory 28 or removable memory card 30 of the digital camera 10. See the specification at, for example, page 5, lines 18-24, and page 6, lines 29-31. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 17 further comprises means for customizing the profile table to provide a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields, the image utilization fields identifying respective instructions for utilization of one or more digital images by the external device. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 5-10. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 17 further comprises means for selecting a customized profile from the customized profile table which corresponds to desired image utilization fields. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, and page 9, lines 6-13. See also the flow diagrams of FIG. 2A, steps 110 and 120, and FIG. 4, steps 300-315.

The digital camera of claim 17 further comprises means for defining a plurality of profile indices respectively corresponding to ones of the plurality of customized profiles. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 5-10. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 17 further comprises means for associating a profile index to at least one image captured by an image sensor to identify the corresponding

selected profile. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 5-10, and page 9, lines 9-16. See also the flow diagram of FIG. 4, steps 310 and 315.

Finally, the digital camera of claim 17 comprises storage means for receiving and storing the at least one captured image and the corresponding profile index. Corresponding structure, material or acts in the specification comprises removable memory card 30 of digital camera 10. See the specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

#### **Claim 20**

Independent claim 20 is directed to a digital camera for capturing images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. An illustrative embodiment of the claimed digital camera is digital camera 10 shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The digital camera of claim 20 includes means for providing a database having a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields. Corresponding structure, material or acts in the specification comprises firmware memory 28 or removable memory card 30 of the digital camera 10. See the specification at, for example, page 5, lines 18-24, and page 6, lines 29-31. See also the flow diagram of FIG. 2A, step 130.

The digital camera of claim 20 further includes means for selecting one of the plurality of customized profiles from the database. Corresponding structure, material or acts in the specification comprises user buttons 24, image display 22 and processor 18 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, and page 9, lines 6-13. See also the flow diagrams of FIG. 2A, steps 110 and 120, and FIG. 4, steps 300-315.

The digital camera of claim 20 further includes storage means for storing a plurality of images captured by an image sensor. Corresponding structure, material or acts in the specification comprises removable memory card 30 of digital camera 10. See the

specification at, for example, page 9, lines 16-17. See also the flow diagram of FIG. 4, step 320.

Also recited in claim 20 is a user interface for selecting a user designated code corresponding to the selected customized profile for permitting only authorized access to the selected customized profile. In the illustrative embodiment, the user interface may comprise image display 22 and user buttons 24 of the digital camera 10. See the specification at, for example, page 6, lines 17-25, page 8, lines 26-36, and page 11, lines 25-29.

### **Claim 21**

Independent claim 21 is directed to a method for transferring customized images files stored in a removable memory card of a digital camera to an external device having image transfer application software, using a database having at least one customizable profile containing a set of image utilization fields. In an illustrative embodiment, the recited digital camera is digital camera 10 having removable memory card 30 as shown in FIG. 1 of the drawings. The external device may be host computer 40 or network service provider 70, both also shown in FIG. 1. See the specification at, for example, page 3, lines 19-23, and page 7, lines 17-18.

The method calls for using image transfer application software to serially transfer a plurality of images files from the removable memory card to the external device, accessing the set of image utilization fields; modifying each transferred image file in the external device in accordance with the set of image utilization fields; and storing the modified transferred image file in a destination directory in the external device defined by one of the image utilization fields. Examples of image utilization fields defining destination directories in an external device can be seen in line 3 of the customized profiles shown in FIGS. 3A, 3B and 3C. See the specification at, for example, page 8, lines 1-4. See also the flow diagram of FIG. 5, steps 425 through 460, and the specification at page 10, line 5, to page 11, line 5.

### **Grounds of Rejection to be Reviewed on Appeal**

The following issues are presented for review by the Board of Patent Appeals and Interferences:

1. Claims 1-5, 8, 11 and 16-19 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,167,469 (hereinafter “Safai ‘469”).
2. Claims 6, 7 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Safai ‘469 in view of U.S. Patent No. 6,177,956 (hereinafter “Anderson”).
3. Claim 12 is rejected under §103(a) as being unpatentable over Safai ‘469 in view of U.S. Patent Application Publication No. 2003/0048361 (hereinafter “Safai Application”).
4. Claims 13-15 are rejected under §103(a) as being unpatentable over U.S. Patent No. 5,806,072 (hereinafter “Kuba”) in view of U.S. Patent No. 6,496,222 (hereinafter “Roberts”).
5. Claims 9 and 20 are rejected under §103(a) over Safai ‘469 in view of U.S. Patent No. 6,433,818 (hereinafter “Steinberg”).
6. Claims 21-24 and 26-32 are rejected under §103(a) over Safai ‘469 in view of Kuba.
7. Claim 25 is rejected under §103(a) over Safai ‘469 in view of Kuba and Roberts.

## **Arguments**

### **1. §102(e) Rejection of Claims 1-5, 8, 11 and 16-19**

#### **Claims 1, 2-5 and 8**

The Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §2131, specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Appellants respectfully submit that the Examiner has failed to establish anticipation of claims 1-5, 8, 11 and 16-19 by Safai ‘469.

Independent claim 1 is directed to a digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. The digital camera includes means for providing a database having a plurality of customized profiles, wherein each customized

profile contains a plurality of image utilization fields, and means for selecting one of the customized profiles from the database. Also, the claim recites means for defining a plurality of profile indices respectively corresponding to ones of the plurality of customized profiles, and means for associating a profile index with at least one captured image to identify the corresponding selected customized profile.

Examples of the claimed customized profiles, each containing a plurality of image utilization fields, are shown in FIGS. 3A and 3B of the drawings. It can be seen that each of these example customized profiles includes multiple image utilization fields, such as a destination directory field, a filename preface field, and an image editing application software field.

The Safai '469 reference fails to teach or suggest the above-noted limitations of claim 1. For example, Safai '469 fails to teach or suggest a plurality of customized profiles, each of which contains a plurality of image utilization fields, with selection of one of the profiles leading to association of a corresponding profile index with a particular captured image.

The Examiner in formulating the §102(e) rejection argues that a customized profile of the type recited in claim 1 is shown in FIG. 4F of Safai '469. However, the arrangement shown in FIG. 4F of Safai '469 is not a customized profile which has a corresponding profile index and is selectable from a plurality of customized profiles in the manner recited in the claim. Instead, FIG. 4F of Safai '469 shows a Send Message screen 454 which is generated by a transport application 230 of a digital camera 100 in response to user activation of the Send Photo button 408 in FIG. 4A. See Safai '469 at column 12, lines 1-4 and 36-37. Apparently, in a given embodiment of Safai '469, the same Send Message screen 454 is presented to the user each time the button 408 is activated, and the user must populate the various fields. The present invention as set forth in claim 1 advantageously avoids this need to re-enter information, by providing an ability to associate selected ones of a plurality of customized profiles with captured images.

Moreover, claim 1 recites that the image utilization fields of a customized profile identify respective instructions for utilization of one or more digital images by the external device. The Examiner alleges that elements 466, 468, 470 and 472 constitute image utilization fields as claimed. However, these elements relate to instructions for the digital camera, and not instructions for an external device. This is apparent from, for example, column 12, lines 50-60, which indicate that box 470 when checked causes the transport

application 230 of digital camera 100 to transmit a voice message, and that box 472 when checked causes the transport application 230 of digital camera 100 to delete the identified images from digital camera 100 after they are sent. Accordingly, elements 466, 468, 470 and 472 identify instructions for utilization of digital images by the digital camera 100, and not instructions for utilization of digital images by an external device.

In the final Office Action, the Examiner apparently argues that the “list of messages” stored in the “Out Box” data structure described at column 12, line 63, to column 13, line 6, of Safai ‘469 comprises a plurality of customized profiles as recited in independent claims 1, 16 and 17. See the final Office Action at pages 4-5. Appellants respectfully disagree. Safai ‘469 indicates that a user fills in the various fields of the Send Message screen 454 as shown in FIG. 4F, entering an email address in address field 466 and identifying one or more photos in photo field 468. The user may then activate the Store button 476. Upon activation of the Store button 476, “the transport application 230 stores information describing the photos, address, and the state of the check boxes 470, 472 in an Out Box.” Safai ‘469 indicates that the contents of the Out Box are in the form of “a list of messages that have been configured for transmission out of the camera but that have not been sent.”

It is respectfully submitted that such messages, already configured for transmission out of the camera, cannot reasonably be construed as a plurality of customized profiles as claimed. For example, in claim 1, one of the customized profiles is selected from a database, and the particular one that is selected is identified by associating its profile index with at least one captured image. The captured image is then stored with the profile index of the selected profile. This arrangement advantageously allows a user to select one of a number of previously-stored profiles for association with images that are captured subsequent to the generation of the profiles. In Safai ‘469, there is no ability to do this. The only option that Safai ‘469 describes with regard to further processing of the stored messages in the Out Box is as follows:

In this embodiment, the top-level menu 400 may be provided with a Check Out Box option that enables the user to review the contents of the Out Box, select a message, and resume the transport process.

It is important to recognize that the user in Safai ‘469 is not permitted to select a stored version of the Send Message screen 454 itself as shown in FIG. 4F. Instead, the user is permitted only to select a message that was generated from one particular instance of the Send Message screen 454 and resume the transport process for that message. The selected message has already been finalized, in that the user apparently cannot modify the selected message in any way. Since the message, as indicated above, is already configured for transmission out of the camera, it cannot be associated after its retrieval from the Out Box with any photos that were not already entered in photo field 468 of Send Message screen 454 when the Store button 476 was activated. The resumption of the transport process simply allows a previously-finalized message to be sent from the Out Box. There is no ability described in Safai ‘469 for selecting one of the stored messages and associating an index of that message with a captured image. The message itself already contains information identifying the photos that were entered in photo field 468 when the Store button 476 was activated, and hence the message does not constitute a selected customized profile that is identified by associating its profile index with at least one captured image.

It should also be pointed out in this regard that the arrangement described in Safai ‘469 fails to provide the advantages of the claimed arrangements in terms of facilitating the association of pre-stored customized profiles with captured images. In Safai ‘469, a user apparently must populate various fields, such as 468, 470 and 472, of the Send Message screen 454 every time a message is going to be sent, even if most of the parameters are unchanged from previously-sent messages. Clearly, requiring a user to continually re-enter information into these fields of the Send Message screen 454 is inefficient. The claimed arrangements advantageously overcome this problem of Safai ‘469 and the other prior art, by providing selectability of a customized profile from multiple such profiles and association of a profile index of the selected profile with one or more subsequently-captured images.

As noted above, claim 1 includes a limitation relating to the image utilization fields of a given customized profile identifying respective instructions for utilization of one or more digital images by an external device. The Examiner argues at page 3 of the final Office Action that the photo field 468 identifies “which images the computer is to display upon email retrieval” and the voice message field 470 “represents an instruction to the computer to play the voice message attached with the image(s).” Appellants respectfully disagree. These and other fields in Send Message screen 454 provide instructions to the

digital camera, and not to any external device. For example, entry of photo identifiers in field 468 simply instructs the digital camera to include such images in a transmitted message; it does not instruct any external device to display or otherwise utilize the corresponding images in any particular way. The images could, for example, simply remain on the external device as unopened attachments to an email message that has been read. Similarly, checking the voice message field 470 simply instructs the digital camera to include a voice message with the identified photo(s) in a transmitted message; it does not instruct any external device to play the voice message or otherwise utilize the corresponding images in any particular way. Examples of image utilization fields that identify respective instructions for utilization of one or more digital images by an external device can be seen in FIGS. 3A and 3B of the present application, and include instructions regarding a local drive destination, a filename preface and a filename suffix, to be used for storage of the transmitted images on the external device.

The Examiner in the last portion of the first paragraph on page 3 of the final Office Action places great emphasis on the fact that FIG. 3A of the present application also includes an instruction to the digital camera to erase images after transfer. However, the limitation at issue in claim 1 calls for the image utilization fields of a given customized profile identifying respective instructions for utilization of one or more digital images by an external device. The instruction to the digital camera to erase images after transfer is not such an instruction. As indicated above, examples of the claimed instructions directed to the external device include those instructions in FIGS. 3A and 3B regarding a local drive destination, a filename preface and a filename suffix, to be used for storage of the transmitted images on the external device.

Dependent claims 2-5 and 8 are believed allowable for at least the reasons identified above with regard to claim 1.

### **Claim 11**

Dependent claim 11 is believed allowable for at least the reasons identified above with regard to independent claim 1.

Dependent claim 11 further recites that the image utilization fields include a destination directory indicating a storage location in the external device for storing the corresponding captured image. The Examiner argues that this limitation is met by the email address “gwang@photoaccess.com” in FIG. 4F of Safai ‘469. See the final Office

Action at page 6, third paragraph. However, this designation is simply an “address field” identifying an email address to which a message will be sent. See Safai ‘469 at column 12, line 38. Appellants submit that such an email address fails to meet the recited limitation of a destination directory indicating a storage location in the external device for storing the corresponding captured image. Accordingly, it is believed that the claim is not anticipated by Safai ‘469

### **Claim 16**

Independent claim 16, like independent claim 1, also recites customized profiles, each having a plurality of image utilization fields, and is believed allowable for reasons similar to those identified above with regard to claim 1.

Claim 16 further recites that the particular one of the customized profiles is selected for the at least one image by storing in association with the at least one image a corresponding profile index that identifies said profile from among the plurality of customized profiles.

The Safai ‘469 reference, as described above, does not teach or suggest the use of a profile index to identify multiple ones of a plurality of customized profiles, nor the selection of a particular one of the profiles for use with a given image by storage of the profile index in association with the image.

### **Claims 17-19**

Independent claim 17, like independent claim 1, also recites customized profiles, each having a plurality of image utilization fields, and is believed allowable for reasons similar to those identified above with regard to claim 1.

The Safai ‘469 reference, as described above, does not teach or suggest the use of a profile index to identify multiple ones of a plurality of customized profiles, nor the selection of a particular one of the profiles for use with a given image by storage of the profile index in association with the image.

Further, Safai ‘469 fails to teach or suggest the recited profile table, customized to provide the customized profiles, each including image utilization fields identifying respective instructions for utilization of one or more of the digital images by an external device.

Dependent claims 18 and 19 are believed allowable at least by virtue of their dependence from claim 17.

## **2. §103(a) Rejection of Claims 6, 7 and 10**

### **Claim 6**

Dependent claim 6 is believed allowable for at least the reasons identified above with regard to independent claim 1.

Dependent claim 6 further recites that the external device is a storage device and the image utilization fields include an image format field indicating the format to be used for storage of the captured image in the storage device. The Examiner relies on the Image Type field 806 in the data cell 76 in FIG. 8 of Anderson. See the final Office Action at page 9, last paragraph. However, the Image Type field in Anderson does not provide any instruction to an external device. Instead, the data cell 76 is specifically described as being utilized for correlating processing data and image data “within a digital camera device.” See Anderson in, for example, the title, abstract, and column 1, lines 8-11 and 44-46. Accordingly, Appellants respectfully submit that the proposed combination of Anderson and Safai ‘469 fails to meet the limitations of claim 6, and that one skilled in the art would not be motivated to combine Anderson with Safai ‘469 in the manner proposed by the Examiner.

### **Claim 7**

Dependent claim 7 is believed allowable for at least the reasons identified above with regard to independent claim 1.

Dependent claim 7 further recites that the external device receives the captured image from the digital camera and the image utilization fields include a field designating a user preferred software application stored in the external device adapted for utilizing the captured image. The Examiner again relies on the Image Type field 806 in the data cell 76 in FIG. 8 of Anderson. See the final Office Action at page 10, third paragraph. However, the Image Type field in Anderson does not provide any instruction to an external device, much less a designation of a user preferred software application to be used by an external device in processing an image. As noted above, the data cell 76 is specifically described as being utilized for correlating processing data and image data “within a digital camera device.” See Anderson in, for example, the title, abstract, and column 1, lines 8-11 and

44-46. Accordingly, Appellants respectfully submit that the proposed combination of Anderson and Safai ‘469 fails to meet the limitations of claim 7, and that one skilled in the art would not be motivated to combine Anderson with Safai ‘469 in the manner proposed by the Examiner.

### **Claim 10**

Dependent claim 10 is believed allowable for at least the reasons identified above with regard to independent claim 1.

Dependent claim 10 further recites that the image utilization fields include an identification field which identifies the particular digital camera which captured the corresponding image. The Examiner argues that this limitation is met by the Miscellaneous field 834 in the data cell 76 in FIG. 8 of Anderson. See the final Office Action at page 11, first paragraph. However, the Miscellaneous field is not described as storing an identification of the particular digital camera that captured an image. The Examiner points to column 8, lines 38-41, but this portion of Anderson describes the field in question as comprising “housekeeping” information for use by the data cell manager. There is no mention whatsoever of an identification field of the type recited in the claim. Accordingly, Appellants respectfully submit that the proposed combination of Anderson and Safai ‘469 fails to meet the limitations of claim 10, and that one skilled in the art would not be motivated to combine Anderson with Safai ‘469 in the manner proposed by the Examiner.

### **3. §103(a) Rejection of Claim 12**

Dependent claim 12 is believed allowable for at least the reasons identified above with regard to independent claim 1.

With regard to the §103(a) rejection of dependent claim 12 over the proposed combination of Safai ‘469 and the Safai Application, Appellants submit that the Safai Application fails to supplement the fundamental deficiencies of Safai ‘469 as applied to independent claim 1. Accordingly, the proposed combination fails to meet the limitations of claim 12, for the reasons identified above with regard to independent claim 1.

#### **4. §103(a) Rejection of Claims 13-15**

##### **Claim 13**

Independent claim 13 calls for a digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images. The digital camera includes, among other elements, means for storing a plurality of software application program identifiers which identify corresponding software application programs which are resident on the external device, a user interface for selecting one of the plurality of software application program identifiers to be associated with at least one captured image, and storage means for receiving and storing the at least one captured image and the associated software application program identifier.

Independent claim 13 further specifies that the software application program identifiers are stored within respective customized profiles selectable via the user interface, and that the selected one of the plurality of software application program identifiers is associated with the at least one captured image by storing an identifier of the corresponding customized profile with the at least one captured image.

Examples of the claimed software application program identifiers can be seen in the “RunApp” fields of the profiles of FIGS. 3A and 3B. These fields identify particular software application programs to be run on the external device for processing one or captured images.

The Examiner acknowledges that Kuba fails to meet the software application program identifier limitations of claim 13, but argues that such limitations are shown in Roberts. More specifically, the Examiner relies on data diskette 50 in FIG. 2A of Roberts, which stores an indication as to whether the camera is operating in a manner compliant with an IBM computer, an Apple computer, or some other type of device. However, such a selection does not identify a particular one of a plurality of software application programs resident on the external device. Instead, the selection simply identifies the manner in which the digital camera is operating, that is, in a manner compliant with a particular type of operating system, such as IBM or Apple. The selection is made using a mode switch 17 on digital camera 2, as shown in FIG. 6. Those skilled in the art of computer science will recognize that selecting a camera operating mode based on the overall operating system of an external device, as described in Roberts, does not involve

identification of a particular one of a plurality of available software application programs, resident on an external device, for use with one or more captured images, as claimed.

In the final Office Action, at pages 12-13, the Examiner argues that IBM and Apple computers “contain different software,” and therefore the codes stored in the format field 57 of data diskette 50 read on the software application program identifiers recited in claim 13. Appellants respectfully disagree. Roberts at column 12, lines 25-32, makes it clear that the codes stored in the format field 57 simply identify different “computer architectures” and not software application programs. Those skilled in the art understand that software application programs differ from operating systems or computer architectures. Also, the claim in question indicates that a plurality of software application program identifiers identify corresponding software application programs that are resident on the external device. In Roberts, since the identifier is of a particular computer architecture or operating system, there is only one such identifier associated with a given external device, which is contrary to the explicit claim language. Also, claim 13 specifies that the software application program identifiers are stored within respective customized profiles that are selectable, and can be associated with a captured image by storing a profile identifier with the image. The collective teachings of Kuba and Roberts fail to teach such selectable customized profiles.

Appellants also believe that the Examiner has failed to identify sufficient objective evidence of motivation to combine or modify Kuba and Roberts to meet the limitations of claim 13. For example, the claim recites storage of software application program identifiers within respective customized profiles selectable via the user interface, with an association being established between one of the software application program identifiers and a captured image by storing an identifier of the corresponding customized profile with the captured image. There is nothing in Kuba and Roberts which would lead one skilled in the art to such an arrangement. The statement of motivation provided at page 13, first paragraph, of the final Office Action is believed to be conclusory, and insufficient to establish a proper *prima facie* case of obviousness.

#### **Claims 14 and 15**

Dependent claim 14 is believed allowable for at least the reasons identified above with regard to independent claim 13.

Dependent claim 14 further recites that the external device receives the at least one captured image and the associated software application program identifier and invokes the corresponding software application program identified by the software application program identifier to process the at least one captured image in accordance with the corresponding software application program. The Examiner argues that Kuba and Roberts meet this limitation, relying primarily on column 12, lines 16-37, of Roberts. See the final Office Action, at page 13, last paragraph, to page 14, first paragraph. However, as indicated above, the identifier in Roberts is an identifier of a particular computer architecture or operating system that the digital camera is operating in compliance with, and not an identifier of a particular software application program that is to be invoked by the external device to process a captured image. Accordingly, Appellants respectfully submit that the limitations of claim 14 are not met by the proposed combination of Kuba and Roberts.

Dependent claim 15 is believed allowable at least by virtue of its dependence from claim 14.

## **5. §103(a) Rejection of Claims 9 and 20**

### **Claim 9**

Dependent claim 9 is believed allowable for at least the reasons identified above with regard to independent claim 1. The Steinberg reference fails to supplement the fundamental deficiencies of Safai ‘469 as applied to claim 1.

### **Claim 20**

Appellants respectfully traverse the rejection of independent claim 20 on the ground that the collective teachings of Safai ‘469 and Steinberg fail to meet the limitations of claim 20. For reasons similar to those identified above with regard to claims 1, 16 and 17, Safai ‘469 fails to teach or suggest selection of one of a plurality of customized profiles, and Steinberg fails to supplement this fundamental deficiency of Safai ‘469.

The Examiner in formulating the rejection of claim 20 relies primarily on the teachings in Steinberg at column 9, lines 14-24. However, this portion of Steinberg simply indicates that an authorized user must enter a password or key followed by biometric data in order to “allow unrestricted access [to a camera] for a set time period or set number of images.” There is no teaching or suggestion regarding selecting a user

designated code corresponding to a selected customized profile for permitting access to the selected customized profile, as recited. In Steinberg, the access granted is apparently to the entire camera, and not to a particular selected customized profile. Accordingly, the collective teachings of Safai ‘469 and Steinberg fail to meet the limitations of claim 20.

Appellants also believe that the Examiner has failed to identify sufficient objective evidence of motivation to combine or modify Safai ‘469 and Steinberg to meet the limitations of claim 20. For example, the claim recites a database of customized profiles having image utilization fields, with an ability to select one of the customized profiles from the database. There is nothing in Safai ‘469 or Steinberg which would lead one skilled in the art to such an arrangement. The statement of motivation provided at page 16, first paragraph, of the final Office Action is believed to be conclusory, and insufficient to establish a proper *prima facie* case of obviousness.

## **6. §103(a) Rejection of Claims 21-24 and 26-32**

### **Claim 21**

The deficiencies of Safai ‘469 as applied to independent claim 21 are generally similar to those previously described herein in conjunction with claims 1, 16 and 17. The Kuba reference fails to overcome these fundamental deficiencies of Safai ‘469 as applied to claim 21.

Independent claim 21 recites, among other limitations, modifying a transferred image file in an external device in accordance with a set of image utilization fields, and storing the modified transferred image file in a destination directory in the external device defined by one of the image utilization fields. The Examiner argues that certain of the elements in the Send Message screen 454 of FIG. 4F in Safai ‘469 meet these limitations. However, as Appellants described above in the context of claim 1, the identified elements of the Send Message screen 454, including elements 466, 468, 470 and 472, provide instructions to the digital camera 100, and not to an external device. Moreover, these elements from FIG. 4F in Safai ‘469 do not relate to transferred image file modification in an external device or defining a destination directory in an external device, as required by the claim limitations at issue. As noted above, the Kuba reference fails to supplement these fundamental deficiencies of Safai ‘469 as applied to claim 21. Accordingly, the proposed combination of Safai ‘469 and Kuba fails to meet the limitations of claim 21.

Appellants also believe that the Examiner has failed to identify sufficient objective evidence of motivation to combine or modify Safai ‘469 and Kuba to meet the limitations of claim 21. For example, the claim recites modifying transferred images in the external device in accordance with image utilization fields of a customizable profile. There is nothing in Safai ‘469 or Kuba which would lead one skilled in the art to such an arrangement. The statement of motivation provided at page 17, second paragraph, of the final Office Action is believed to be conclusory, and insufficient to establish a proper *prima facie* case of obviousness.

### **Claim 22**

Dependent claim 22 is believed allowable for at least the reasons identified above with regard to independent claim 21.

Dependent claim 22 further specifies the set of image utilization fields is stored on the external device. The Examiner argues that the limitation is met by the email address “gwang@photoaccess.com” in FIG. 4F of Safai ‘469 because “it is inherent that the words . . . are stored in the external device.” See the final Office Action at page 17, third paragraph. Appellants note that the claim limitation calls for a set of image utilization fields to be stored on an external device, where the set of image utilization fields are further defined in the corresponding independent claim as being used to modify transferred image files in the external device. The email address relied on by the Examiner does not meet this limitation. Accordingly, the proposed combination of Safai ‘469 and Kuba fails to meet the limitations of claim 22.

### **Claim 23**

Dependent claim 23 is believed allowable for at least the reasons identified above with regard to independent claim 21.

Dependent claim 23 specifies the step of editing the customizable profile in the external device. The Examiner relies on an inherency argument, stating that “after sending, it is inherent that the message is no longer available.” See the final Office Action at page 17, fourth paragraph. Appellants do not see how this inherency argument meets the particular claim limitation, which relates to editing of a customized profile in an external device. In the proposed combination of Safai ‘469 and Kuba, there does not

appear to be any ability to edit a profile on an external device in the manner recited in this claim.

**Claims 24 and 27-32**

Dependent claims 24 and 27-32 are believed allowable for at least the reasons identified above with regard to independent claim 21.

**Claim 26**

Dependent claim 26 is believed allowable for at least the reasons identified above with regard to independent claim 21.

Dependent claim 26 further specifies that the external device includes a database and further recites the step of updating the camera database and the external device database before the captured images are transferred from the digital camera to the external device so that both the camera database and the external device database include the same profiles. The Examiner relies on the teachings in Safai '469 at column 9, lines 30-45. See the final Office Action at page 18, first paragraph. Appellants submit that the relied-upon passage provides no teaching or suggestion regarding the recited coordination of profiles in a digital camera and an external device.

Accordingly, the proposed combination of Safai '469 and Kuba fails to meet the limitations of claim 26.

**7. §103(a) Rejection of Claim 25**

Dependent claim 25 is believed allowable for at least the reasons identified above with regard to independent claim 21.

Dependent claim 25 specifies that the image utilization fields include an image editing preference application software field designating a software application stored in the external device and further recites a step of applying the designated user preferred application software to the modified transferred captured image. The Examiner apparently argues that these limitations are met by Safai '469 in view of Kuba and Roberts.

Appellants initially note that the final Office Action remains unclear with regard to whether the rejection of claim 25 is over Safai '469 or another Safai patent, namely, U.S. Patent No. 6,175,003 (hereinafter "Safai '003"). At page 2, last paragraph, of the final Office Action, the Examiner apparently argues that Safai '003 is not relied on for any

rejection, and yet the detailed rejection at page 19, section 14, specifically recites Safai '003. For purposes of the present Appeal Brief, Appellants assume that the rejection of dependent claim 25 is made over Safai '469.

As Appellants have noted elsewhere herein, the Roberts reference does not teach or suggest identifiers of particular software application programs resident on an external device. Instead, Roberts simply allows a camera user to configure the camera so as to provide an indication as to whether the camera is operating in a manner compliant with a particular external device operating system. There is no teaching or suggestion in Roberts regarding the recited identifier of a particular preferred image editing software application program to be used when processing a corresponding image on an external device.

Accordingly, it is believed that the proposed combination of Safai '469, Roberts and Kuba fails to meet the limitations of claim 25.

## **Conclusion**

For the above reasons, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the rejection by the Examiner and mandate the allowance of claims 1-32.

Respectfully submitted,

  
Pamela R. Crocker

Attorney for Appellants  
Registration No. 42,447

Pamela R. Crocker/law  
Telephone: 585-477-0553  
Facsimile: 585-477-4646

### Enclosures

If the Examiner is unable to reach the Appellant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

## **Appendix I - Claims on Appeal**

1. A digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images, comprising:

- (a) means for providing a database having a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields, the image utilization fields identifying respective instructions for utilization of one or more digital images by the external device;
- (b) means for selecting one of the plurality of customized profiles from the database;
- (c) means for defining a plurality of profile indices respectively corresponding to ones of the plurality of customized profiles;
- (d) an image sensor for capturing images;
- (e) means for associating a profile index with at least one captured image to identify the corresponding selected customized profile; and
- (f) storage means for receiving and storing the at least one captured image and the corresponding profile index.

2. The digital camera according to claim 1 wherein the database is a profile table.

3. The digital camera according to claim 1 wherein the storage means is a removable memory card.

4. The digital camera according to claim 1 wherein a plurality of captured images are associated with the same customized profile and stored in the storage means.

5. The digital camera according to claim 1 wherein the database is stored in the digital camera.

6. The digital camera according to claim 1 wherein the external device is a storage device and wherein the image utilization fields include an image format field indicating the format to be used for storage of the captured image in the storage device.

7. The invention according to claim 1 wherein the external device receives the captured image from the digital camera and wherein the image utilization fields include a field designating a user preferred software application stored in the external device adapted for utilizing the captured image.

8. The invention according to claim 1 wherein the external device receives the captured image from the digital camera and wherein the image utilization fields include a deletion field indicating whether the digital camera should delete the captured image from the storage means after storage of the captured image in the external device.

9. The digital camera according to claim 1 further including means defining a user designated code for permitting only authorized access to the selected profile.

10. The digital camera according to claim 1 wherein the image utilization fields include an identification field which identifies the particular digital camera which captured the corresponding image.

11. The digital camera according to claim 1 wherein the image utilization fields include a destination directory indicating a storage location in the external device for storing the corresponding captured image.

12. The digital camera according to claim 1 further including a Flash EPROM and wherein the database is stored in the Flash EPROM.

13. A digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images, comprising:

- (a) an image sensor for capturing images;
- (b) means for storing a plurality of software application program identifiers which identify corresponding software application programs which are resident on the external device;
- (c) a user interface for selecting one of the plurality of software application program identifiers to be associated with at least one captured image; and
- (d) storage means for receiving and storing the at least one captured image and the associated software application program identifier;  
wherein the software application program identifiers are stored within respective customized profiles selectable via the user interface, the selected one of the plurality of software application program identifiers being associated with the at least one

captured image by storing an identifier of the corresponding customized profile with the at least one captured image.

14. The invention according to claim 13 wherein the external device receives the at least one captured image and the associated software application program identifier and invokes the corresponding software application program identified by the software application program identifier to process the at least one captured image in accordance with the corresponding software application program.

15. The digital camera according to claim 14 wherein the external device is a programmable computer.

16. A digital camera for capturing images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images, comprising:

- (a) an image sensor for capturing a plurality of images;
- (b) storage means for storing the plurality of captured images;
- (c) means for storing an image deletion mode for each stored image

which indicates that such stored image is to be deleted from the storage means after such stored image is transferred to the external device, wherein the image deletion mode is stored as one of a plurality of image utilization fields in a given one of a plurality of customized profiles, particular ones of the customized profiles being selectable for use with one or more of the stored images; and

(d) a user interface for selecting a particular one of the customized profiles, having the image deletion mode as one of the image utilization fields thereof, for at least one stored image;

wherein the particular one of the customized profiles is selected for the at least one image by storing in association with the at least one image a corresponding profile index that identifies said profile from among the plurality of customized profiles.

17. A digital camera for capturing digital images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images; comprising:

- (a) means for providing a profile table;
- (b) means for customizing the profile table to provide a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields, the image utilization fields identifying respective instructions for utilization of one or more digital images by the external device;
- (c) means for selecting a customized profile from the customized profile table which corresponds to desired image utilization fields;
- (d) means for defining a plurality of profile indices respectively corresponding to ones of the plurality of customized profiles;
- (e) an image sensor for capturing images;
- (f) means for associating a profile index to at least one captured image to identify the corresponding selected profile; and
- (g) storage means for receiving and storing the at least one captured image and the corresponding profile index.

18. The digital camera according to claim 17 wherein the means for customizing the profile table includes producing a new profile having a different plurality of image utilization fields with at least one of the image utilization fields being different.

19. The digital camera according to claim 17 wherein the means for customizing the profile table includes means for editing an existing profile to have a different plurality of image utilization fields with at least one of the image utilization fields being edited.

20. A digital camera for capturing images and organizing the captured images for subsequent transfer from the digital camera to an external device that utilizes the digital images, comprising:

- (a) means for providing a database having a plurality of customized profiles, wherein each customized profile contains a plurality of image utilization fields;
- (b) means for selecting one of the plurality of customized profiles from the database;
- (c) an image sensor for capturing a plurality of images;
- (d) storage means for storing the plurality of captured images; and
- (e) a user interface for selecting a user designated code corresponding to the selected customized profile for permitting only authorized access to the selected customized profile.

21. A method for transferring customized images files stored in a removable memory card of a digital camera to an external device having image transfer

application software, using a database having at least one customizable profile containing a set of image utilization fields, comprising the steps of:

- (a) using the image transfer application software to serially transfer a plurality of images files from the removable memory card to the external device;
- (b) accessing the set of image utilization fields;
- (c) modifying each transferred image file in the external device in accordance with the set of image utilization fields; and
- (d) storing the modified transferred image file in a destination directory in the external device defined by one of the image utilization fields.

22. The method according to claim 21 wherein the set of image utilization fields is stored on the external device.

23. The method according to claim 21 further including the step of editing the customizable profile in the external device.

24. The method according to claim 21 wherein the image utilization fields include a deletion field and further including the step of deleting the modified transferred captured image in accordance with the deletion field from the removable memory card in the digital camera after storage of such image in the external device.

25. The method according to claim 21 wherein the image utilization fields include an image editing preference application software field designating a software application stored in the external device and further including the step of applying the designated user preferred application software to the modified transferred captured image.

26. The method according to claim 21 wherein the external device includes a database and further including the step of updating the camera database and the external device database before the captured images are transferred from the digital camera to the external device so that both the camera database and the external device database include the same profiles.

27. A computer program product having instructions therein for causing the external device to perform the method of claim 21.

28. The method of claim 21 wherein the database includes a plurality of profiles.

29. The method of claim 21 wherein the database is stored in the digital camera.

30. The method of claim 21 wherein the database is stored in the external device.

31. The method of claim 21 wherein the set of utilization fields include a filename suffix or filename prefix appended to the camera filenames.

32. The method of claim 21 wherein the external device is a network service provider.

## **Appendix II - Evidence**

None

### **Appendix III – Related Proceedings**

None